

REMARKS

Reconsideration and allowance are requested in view of the above amendments and the following discussion.

The Rejection Under Section 102

Under 35 U.S.C. 102(b), the Examiner has rejected Claims 1-2 as being anticipated by Dunn et al. U.S. Patent No. 4,790,943. This rejection is traversed in view of the above amendments and the following discussion.

The language of 35 U.S.C. 102(b) states that:

A person shall be entitled to a patent unless ---

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States, or....

The interpretation of 102(b) is, without question, that **the denial of a patent requires that the reference teach applicant's invention as defined by the claims.** This requirement is also referred to as "anticipation", and the Courts have provided clear and unambiguous definitions in this area.

In *General Electric Company v. United States*, 572 F.2d 745, 768, 198 U.S.P.Q. 65, 85

(U.S. Court of Claims 1978), a case involving Section 102(e), the Court states:

To anticipate a claim a prior reference must show each and every element claimed. Short of this, anticipation does not exist. *In re Royka*, 490 F.2d 981, 984, 180 U.S.P.Q. 580, 583 (Cust. & Pat. App. 1974).

(Emphasis added.)

Applicant refers to *In re Spada and Wilczynski*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990)), where the Court states on page 708:

Rejection for anticipation or lack of novelty requires, as the first step in the inquiry, that **all the elements of the claimed invention** be described in a single reference.... Further, the reference must describe the applicant's claimed invention **sufficiently** to have placed a person of ordinary skill in the field of the invention **in possession of it...**

(Emphasis added and citations omitted.)

Applicant further refers to *Helifix Limited v. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ 2d 1299 (Fed. Cir. 2000) and *In re Donohue*, 766 F.2d 531, 226 USPQ 619 (Fed. Cir. 1985).

In response to the April 20 Office Action, applicant has taken the following action:

1. Claim 1 is amended to recite (a) that the liquid is subjected to a chlorination step and (b) the use of about 30 ppm to about 50 ppm chlorine in the chlorination step.
2. Claim 2 is amended to recite the use of about 30 ppm to about 50 ppm chlorine in the chlorination step.

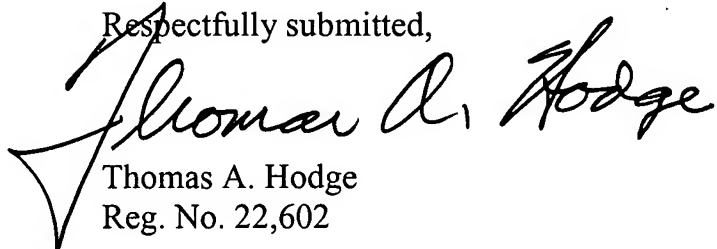
Support for the amendments to Claims 1 and 2 is found on page 4 of the present application.

While the cited Dunn patent may teach the use of a chlorination step in a process for treating effluent water from a poultry processing plant, that patent clearly fails to teach the use of any amount of chlorine. More specifically, the Dunn patent fails to teach the use of about 30 ppm to about 50 ppm of chlorine.

In view of the amendments to Claims 1 and 2 and the above discussion, this rejection under Section 102(b) fails because the Dunn patent does not teach each and every element of applicant's invention as defined by amended Claims 1 and 2. Consequently, applicant requests the removal of this rejection under Section 102(b).

Based upon the above discussion and amendments, applicant maintains that this application is in condition for allowance, which action is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas A. Hodge". The signature is stylized with a large, sweeping initial "T" and a long, horizontal stroke extending to the right.

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